

ATTORNEY DOCKET NO. BRI.00026

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES#18/Reply
Brief
7/26/02
c. Power

Art Unit: 2875)
)
Examiner: Thomas M. Sember)
)
Inventor: Graham B. McCloy and)
Ronald R. Raymo)
)
Serial No.: 09/495,105)
)
Filed: February 1, 2000)
)
For: EXTERIOR REAR VIEW)
MIRROR HAVING A CHIN)
STRAP AND A REPEATER)

REPLY BRIEF

CERTIFICATE OF FIRST CLASS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Honorable Commissioner for Patents, Washington, D.C. 20231, on July 23, 2002.



PHILIP R. WARN

Honorable Commissioner of Patents
Washington, D.C. 20231

FAX COPY RECEIVED

Dear Sir:

JUL 23 2002

This is a Reply Brief to the Examiner's Answer mailed May 22, 2002. TECHNOLOGY CENTER 2800

REMARKS

The Examiner, in order to simplify the record and eliminate rejections that are cumulative, has removed the prior art rejections in view of Yamada, Pastrick '704 and Pastrick et al. '659.

ATTORNEY DOCKET NO. BRI.00026

Claims 33 and 34 stand objected to a being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Thus, claims 25-32 and 41-59 remain rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

COMMENTS REGARDING THE EXAMINER'S ANSWER

The Applicants' respectfully traverse the remaining 35 U.S.C. 102(b) rejections of claims 25-32 and 41-59.

As previously noted, the law is clear that anticipation requires that a single prior art reference disclose each and every limitation of the claim sought to be rejected. 35 U.S.C. 102(b). The law is also clear that a claim in dependent form shall be construed to incorporate all the limitations of the claim to which it refers. 35 U.S.C. § 112 ¶ 4.

The Examiner, in the Answer, stated that "the Applicants argue that U.S. Patent No. 5,823,654 to Pastrick et al. fails to disclose a bezel portion separately formed which extends below a lower peripheral portion (not claimed) of the mirror housing and/or follows the contour of the mirror housing (not claimed) " (Examiner's Answer at Page 15).

The Applicants wish to note that they were commenting on the deficiencies in the teachings of Pastrick et al. '654, and were not quoting directly from the appealed claims. Furthermore, the Applicants submit that they are not limited to using only the verbatim language in the appealed claims when presenting arguments in favor of novelty and/or non-obviousness. Either the cited prior art teaches the subject matter of the appealed claims or it does not. In this case, Pastrick et al. '654 does not teach the subject matter of

the appealed claims.

Independent claim 25 recites, among other things, ***a bezel having a height for extending below the housing, formed as a separate element of and attached to a lower portion of the mirror housing, a portion of the bezel including an opaque contoured surface portion extending from the lower portion of the mirror housing***, the bezel having an opening for projecting light through the lens.

First, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose a bezel portion that is both separately formed and which extends below the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing***; thus, there is no possible way the bezel portion can extend below the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Second, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose that the bezel portion includes an opaque contoured surface portion extending from the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing***; thus, there is no possible way the bezel portion can form an opaque contoured surface portion extending from the lower portion of the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Furthermore, Pastrick et al. '654 teaches that the mirror housing 34 solely provides the only opaque surface, as the only exposed surface of the bezel portion must be

ATTORNEY DOCKET NO. BRI.00026

transparent because the remaining "body" of the bezel portion is fully received within the mirror housing and is not visible at all when viewed from the outside (see especially FIGS. 2, 3, 23, 25, 27, and 28).

Accordingly, the Applicants submit that independent claim 25 is not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 26 further limits and defines independent claim 25 and recites, among other things that the bezel is disposed generally beneath the backing assembly and the reflective element. Accordingly, claim 26 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 27 further limits and defines independent claim 25 and recites, among other things that the opening in the bezel projects rearwardly. Accordingly, claim 27 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 28 further limits and defines independent claim 25 and recites, among other things that the light source generates light to provide at least one of a turn signal light, an approach light, and a vehicle side marker light. Accordingly, claim 28 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 29 further limits and defines independent claim 25 and recites, among other things that the light source assembly has a reflective inner surface, the inner surface being shaped to direct a maximum amount of light emitted from the light source to the lens. Accordingly, claim 29 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 30 further limits and defines independent claim 25 and recites, among other things that the lens is operative to direct light through an arc extending at

ATTORNEY DOCKET NO. BRI.00026

least 40 degrees rearwardly from approximately a line passing through the mirror assembly and extending perpendicular to the longitudinal axis of the vehicle. Accordingly, claim 30 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 31 further limits and defines independent claim 25 and recites, among other things that the light source is operable to provide a signal visible through the light transmitting lens to a rearward motor vehicle when actuated. Accordingly, claim 31 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 32 further limits and defines independent claim 25 and recites, among other things that the mirror assembly further comprises a fastener for attaching the light module to the bezel. Accordingly, claim 32 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Independent claim 41 recites, among other things a bezel formed of a separate element of and disposed in proximity to a portion of a lower transverse surface of the housing, the bezel having a height for extending below the lower transverse surface and an opening for projecting light in a portion of the bezel formed a contoured surface from the lower portion of the mirror housing.

First, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose a bezel portion that is both separately formed and which extends below the lower transverse surface of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that *the bezel portion is to be received within the mirror housing*; thus, there is no possible way the bezel portion can extend below the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower

ATTORNEY DOCKET NO. BRI.00026

surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Second, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose that the bezel portion includes a contoured surface portion extending from the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that *the bezel portion is to be received within the mirror housing*; thus, there is no possible way the bezel portion can form a contoured surface portion extending from the lower portion of the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Accordingly, the Applicants submit that independent claim 41 is not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 42 further limits and defines independent claim 41 and recites, among other things that the opening in the bezel projects rearwardly. Accordingly, claim 42 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 43 further limits and defines dependent claim 42, dependent upon independent claim 41, and recites, among other things that the light source assembly is removably secured to the bezel. Accordingly, claim 43 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 44 further limits and defines independent claim 41 and recites, among other things that the light source generates light to provide at least one of a turn signal light, a vehicle approach light, and a vehicle side marker light. Accordingly, claim 44 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 45 further limits and defines independent claim 41 and recites, among other things that the light source generates light to provide a vehicle approach light and wherein the lens is one of red, amber, and white. Accordingly, claim 45 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 46 further limits and defines independent claim 41 and recites, among other things that the light source generates light to provide a vehicle side marker light and wherein the lens is one of red, amber, and white. Accordingly, claim 46 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 47 further limits and defines independent claim 41 and recites, among other things that the light source generates light to provide a turn signal and wherein the lens is one of red, white, and amber. Accordingly, claim 47 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 48 further limits and defines independent claim 41 and recites, among other things that the light source assembly has a reflective inner surface, the inner surface being shaped to direct a maximum amount of light emitted from the light source to the lens. Accordingly, claim 48 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 49 further limits and defines independent claim 41 and recites, among other things that the bezel is separately formed from the housing, and wherein a fastener attaches the bezel to the housing. Accordingly, claim 49 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 50 further limits and defines independent claim 41 and recites, among other things that the lens is operative to direct light through an arc extending at

ATTORNEY DOCKET NO. BRI.00026

least 40 degrees rearwardly from approximately a line passing through the mirror assembly and extending perpendicularly to the longitudinal axis of the vehicle. Accordingly, claim 50 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 51 further limits and defines independent claim 41 and recites, among other things that the light source assembly includes an electrical connector for supporting the light source. Accordingly, claim 51 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 52 further limits and defines dependent claim 42, dependent upon independent claim 41, and recites, among other things that the bulb holder is integrally formed with the light source assembly. Accordingly, claim 52 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Dependent claim 53 further limits and defines independent claim 41 and recites, among other things that the light source assembly is operable to provide a signal visible through the light transmitting lens to a rearward motor vehicle when actuated. Accordingly, claim 53 is also not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Independent claim 54 recites, among other things a bezel having a height for extending below the housing, formed as a separate element of and attached to a lower portion of the mirror housing, a portion of the bezel including an opaque portion being contoured for forming a lower contoured portion of the mirror contoured surface portion extending from the lower portion of the mirror housing, the bezel also including a cavity therein for receiving a light source and a lens over the cavity for allowing light through.

ATTORNEY DOCKET NO. BRI.00026

First, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose a bezel portion that is both separately formed and which extends below the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing***; thus, there is no possible way the bezel portion can extend below the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Second, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose that the bezel portion includes an opaque contoured surface portion extending from the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing***; thus, there is no possible way the bezel portion can form an opaque contoured surface portion extending from the lower portion of the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Furthermore, Pastrick et al. '654 teaches that the mirror housing 34 solely provides the only opaque surface, as the only exposed surface of the bezel portion must be transparent because the remaining "body" of the bezel portion is fully received within the mirror housing and is not visible at all when viewed from the outside (see especially FIGS. 2, 3, 23, 25, 27, and 28).

Accordingly, the Applicants submit that independent claim 54 is not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Independent claim 55 recites, among other things an independent light emitting

ATTORNEY DOCKET NO. BRI.00026

portion having a height for extending below the housing and contoured for formed a contoured lower surface abutting to and continuing the contour of the housing, formed as a separate element of and attached to a lower portion of the mirror housing, a portion of the bezel including an opaque portion thereof for preventing light from passing therethrough and a lens portion for allowing light to project through the lens.

First, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose a bezel or light-emitting portion that is both separately formed and which extends below the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing;*** thus, there is no possible way the bezel portion can extend below the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Second, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose that the bezel or light-emitting portion includes an opaque contoured surface portion extending from the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing;*** thus, there is no possible way the bezel portion can form an opaque contoured surface portion extending from the lower portion of the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28). Furthermore, Pastrick et al. '654 teaches that the mirror housing 34 solely provides the only opaque surface, as the only exposed surface of the bezel

ATTORNEY DOCKET NO. BRI.00026

portion must be transparent because the remaining "body" of the bezel portion is fully received within the mirror housing and is not visible at all when viewed from the outside (see especially FIGS. 2, 3, 23, 25, 27, and 28).

Accordingly, the Applicants submit that independent claim 55 is not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Independent claim 56 recites, among other things a separately formed signal attachment disposed in proximity to a said bottom portion of the housing, the signal element attachment having a height for extending below said bottom portion and an opening for projecting light in a portion of said attachment forming a contoured surface immediately adjacent and continuing the contoured surface of said contoured back surface of said housing.

First, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose a bezel or signal attachment portion that is both separately formed and which extends below the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that *the bezel portion is to be received within the mirror housing*; thus, there is no possible way the bezel portion can extend below the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Second, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose that the bezel or signal attachment portion includes a contoured surface portion extending from the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that *the bezel portion is to be received within the mirror*

ATTORNEY DOCKET NO. BRI.00026

housing; thus, there is no possible way the bezel portion can form a contoured surface portion extending from the lower portion of the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Accordingly, the Applicants submit that independent claim 56 is not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Independent claim 57 recites, among other things a signal attachment member formed independently of the mirror housing and defining a contoured option of a lower surface of the mirror housing, the signal attachment member having a height for extending below the downwardly extending peripheral wall, said signal attachment member including an upwardly extending contoured surface portion for mating with the downwardly extending wall of said mirror housing said signal attachment member including a lens portion signal attachment member being attached to said housing and forming a contour following surface from the lower peripheral edge.

First, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose a bezel or signal attachment portion that is both separately formed and which extends below the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing***; thus, there is no possible way the bezel portion can extend below the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

ATTORNEY DOCKET NO. BRI.00026

Second, the device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose that the bezel or signal attachment portion includes a contoured surface portion extending from the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing***; thus, there is no possible way the bezel portion can form a contoured surface portion extending from the lower portion of the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Accordingly, the Applicants submit that independent claim 57 is not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Independent claim 58 recites, among other things a detachable bezel formed separately from said housing, said bezel attached to and extending below said lower wall portion, said bezel including a planar longitudinal surface extending between a front surface and a rear surface of said bezel wherein said front surface of said bezel is position adjacent said outer wall portion of said housing, said bezel extending inward such that said rear surface of said bezel is proximate a breakaway feature of the mirror assembly, said bezel further including a lens.

The device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose a bezel portion that is both separately formed and which extends below the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing***; thus, there is no possible way the bezel portion can extend below the mirror housing because the bezel

ATTORNEY DOCKET NO. BRI.00026

portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Accordingly, the Applicants submit that independent claim 58 is not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

Independent claim 59 recites, among other things a bezel formed independently of the mirror housing and defining a portion of a lower transverse surface of the mirror housing and defining a portion of a lower transverse surface of the mirror housing, the bezel having a height for extending below the downwardly extending peripheral wall, said bezel including an upwardly extending wall portion for mating with the downwardly extending wall of said mirror housing and having an opening for projecting light; said bezel attached to said housing.

The device taught by U.S. Patent No. 5,823,654 to Pastrick et al. does not disclose a bezel or signal attachment portion that is both separately formed and which extends below the lower portion of the mirror housing. Conversely, Pastrick et al. '654 clearly teaches that ***the bezel portion is to be received within the mirror housing;*** thus, there is no possible way the bezel portion can extend below the mirror housing because the bezel portion, once inserted into the mirror housing, is perfectly flush with the lower surface of the mirror housing (see especially column 9, lines 20-25 and FIGS. 23, 25, 27, and 28).

Accordingly, the Applicants submit that independent claim 59 is not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

ATTORNEY DOCKET NO. BRI.00026

Therefore, based on at least the foregoing remarks, the Applicants submit that claims 25-32 and 41-59 are not anticipated by U.S. Patent No. 5,823,654 to Pastrick et al.

ALLOWABLE SUBJECT MATTER

The Examiner stated that claims 33 and 34 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The Examiner correctly noted that the prior art of record alone or in combination doesn't teach or fairly suggest attaching the light module 151 of Pastrick et al. '654 with a threaded or clip-type fastener. The Examiner went on to correctly note that, in fact, the prior art of Pastrick et al. '654 is silent as to how the entire light module is attached to the bezel portion 104.

ATTORNEY DOCKET NO. BRI.00026

CONCLUSION

For the reasons advanced above, appellant respectfully urges that the remaining rejection of claims 25-32 and 41-59 under 35 U.S.C. § 102(b) is improper. Reversal of the rejection in this appeal is respectfully requested.

Please charge any deficiency in fees due in connection with the filing of this paper to Deposit Account No. 50-1612 and please credit any excess fees to such deposit account.

Respectfully submitted,

Dated: July 23, 2002

Warn, Burgess & Hoffmann, P.C.
P.O. Box 70098
Rochester Hills, MI 48307
(248) 364-4300

PRW/kmg

By: 

Philip R. Warn (Reg No 32775)
Attorney for Appellant

FAX COPY RECEIVED

JUL 23 2002

TECHNOLOGY CENTER 2000